

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

T.A., as guardian *ad litem* of  
Minor Child, H.S.,

Plaintiff,

vs.

BURKE COUNTY PUBLIC SCHOOLS  
BOARD OF EDUCATION, et al.,

Defendants.

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A.M., as guardian *ad litem* of  
Minor Child, K.M.,

Plaintiff,

vs.

BURKE COUNTY PUBLIC SCHOOLS  
BOARD OF EDUCATION, et al.,

Defendants.

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CIVIL CASE NO.  
1:13-CV-00278-MR-DLH

CIVIL CASE NO.  
1:13-CV-00279-MR-DLH

**ORDER TO CONTINUE  
SUMMARY JUDGMENT  
HEARING AND TO  
CONSOLIDATE CASES**

**THESE MATTERS** are before the Court for consolidation *sua sponte*,  
and to continue the summary judgment hearing by consent motions filed on  
behalf of Defendant Burke County Public Schools Board of Education

(“Board”) and Defendant Linda Bradshaw (“Bradshaw”). [13-CV-278 Doc. 48; 13-CV-279 Doc. 45].

Rule 42 of the Federal Rules of Civil Procedure provides that the Court may consolidate two civil actions if they involve “a common question of law or fact.” Fed. R. Civ. P. 42(a)(2). The Court finds that these two civil actions involve common questions of law and fact such that consolidation for any future hearings and trial would be appropriate. The Court further finds that Civil Case No. 1:13-CV-00278-MR-DLH should be designated as the lead case for all future filings concerning both matters, and Civil Case No. 1:13-CV-00279-MR-DLH should be closed.

Defendants Board and Bradshaw have filed motions, with the consent of the Plaintiffs in each matter, requesting the Court continue the summary judgment hearing currently set for December 12, 2014. The basis for their continuance request stems from the following:

On May 15, 2014, in companion case to these two matters, the Court entered an Order [12-CV-334, Doc. 78] requiring all pending companion matters involving Defendant Board undergo a joint mediation with mediator C. Frank Goldsmith, Jr., on or before April 15, 2014. The Court’s Order also provided that the joint mediation was without prejudice should the joint mediation be unsuccessful and the parties desire to pursue additional

mediation in their individual cases. [Id. at 2]. A joint mediation was conducted on April 22, 2014, by Mr. Goldsmith pursuant to the Court's Order. Due to the number of companion cases being mediated, insufficient time existed during such mediation for any meaningful settlement negotiations to take place with regard to the two matters filed herein. Plaintiffs and Defendants Board and Bradshaw in these two matters desire to pursue additional mediation and have scheduled a joint mediation to occur with Mr. Goldsmith on January 21, 2015.

The parties contend, and Court finds, that it will be in the best interest of justice and judicial economy, therefore, to continue the hearing on the summary judgment motions. The Court is concerned, however, by the lapse of time between the joint mediation held April 22, 2014, and the filing of the continuance motions December 9, 2014, without any explanation by the parties regarding their efforts at mediation during the interim. The summary judgment motions will be rescheduled, if necessary, as soon after the January 21, 2015, mediation as is practicable for the Court, and any further continuance request is unlikely to be granted.

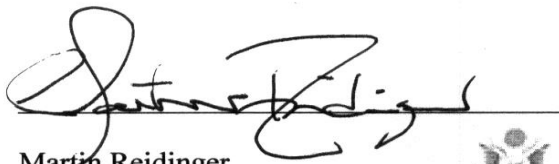
**IT IS, THEREFORE, ORDERED** that Civil Case No. 1:13-CV-00278-MR-DLH and Civil Case No. 1:13-CV-00279-MR-DLH are hereby **CONSOLIDATED** for all future proceedings and trial before the

undersigned. Civil Case No. 1:13-CV-00278-MR-DLH is designated as the lead case, and Civil Case No. 1:13-cv-00279-MR-DLH shall be closed. Pursuant to Local Civil Rule 5.2.1(D), all future pleadings will be docketed and filed in the designated lead case only.

**IT IS FURTHER ORDERED** that Defendant Board's and Defendant Bradshaw's Motions to Continue Summary Judgment Hearing [13-CV-278 Doc. 48; 13-CV-279 Doc. 45] are **GRANTED**, and the summary judgment hearing currently scheduled for December 12, 2014, is **CONTINUED** off of the Court's calendar until further order by the Court.

**IT IS SO ORDERED.**

Signed: December 9, 2014

  
Martin Reidinger  
United States District Judge

